

**Order to Adopt
Article 3.6
Business Partners Automation Program Due Process**

§ 225.15. BPA Permit Authority.

(a) No person shall act as a first-line business partner or first-line service provider that is not a party to a currently valid BPA contract and permit.

(b) Upon the execution of the first-line business partner or first-line service provider BPA contract, the department will issue a BPA permit for each site location that the department has determined meets the permit qualifications of Section 225.03, and has not been disqualified pursuant to Section 225.18 or Section 225.73. The BPA permit shall identify the business as an authorized business partner.

(c) A BPA permit ~~shall~~ may be issued to each first-line business partner, first-line service provider and second-line business partner for each site location that the department has determined meets the permit qualifications. If otherwise eligible, ~~Upon~~ the execution of the BPA contract, the department ~~will~~ may issue a BPA permit. The BPA permit shall identify the business as an authorized business partner.

(d) A permit for the principal place of business is valid for 36 months ~~unless terminated pursuant to section 225.18~~. A permit shall be displayed during the period of validity within view of the business partner's customers. A permit for a site location expires when the principal place of business permit expires.

Note: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1652, 1653 and 1685, Vehicle Code.

§ 225.24. Failure to Meet Security Requirements.

The failure of an applicant or a business partner to comply with the information security requirements identified in Section 225.51 shall be good cause for the department to cancel, ~~terminate~~ suspend, revoke, or refuse to enter into a BPA contract and/or BPA permit with such business partner applicant.

Note: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: 1685, Vehicle Code.

§ 225.66. Investigation and Review.

(a) The department may exercise any and all authority and powers available to it under any other provisions of law to administer and enforce this article, including, but not limited to, examining, auditing and investigating the business partner's books and records, and charging and collecting the reasonable costs for these activities. Any civil, criminal, and administrative authority and remedies available to the department may be

sought and employed in any combination deemed advisable by the department to enforce the provisions of this article. Nothing in this section shall be construed to impair or impede the department's authority under any other provision of law.

(b) The State may examine, audit, or investigate a business partner's activities under Vehicle Code section 1685, these regulations, and any agreement between a business partner and the State even if the BPA contract or permit is terminated, cancelled, revoked, suspended, or expires. The examination, audit or investigation may relate to any matter, including, but not limited to, procedures, operations and finances relating to the business partner activity. The business partner shall make available to the State all of its records and reports relating to the conduct of the activity, whether hard copy, or stored in electronic media. Failure by a business partner to comply with the provisions of this section shall be cause for immediate ~~termination~~ cancellation of a business partner's permit and contract, if applicable.

(c) Whenever the department examines, audits or investigates any business partner, that business partner shall pay, within 30 days after receipt of a statement from the department, the reasonable costs incurred by the department for the performance of the examination, audit or investigation, including, but not limited to:

- (1) The reasonable amount of the salary and/or other compensation paid to the persons making the examination, audit or investigation.
- (2) The reasonable expenses for travel, meals and lodging of the persons making the examination, audit or investigation.
- (3) The reasonable amount of any other expenses, including overhead.

Note: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: 1685, Vehicle Code.

§ 225.69. Cancellation or Termination of a BPA Contract and Permit.

(a) A first-line business partner and first-line service provider shall cancel a BPA contract and permit by notifying the BPA Program Administrator in a signed and written notification on business partner letterhead and sent by facsimile, U.S. mail, or private courier no less than 30 days prior to the cancellation.

- (1) A second-line business partner shall cancel a BPA permit by notifying its first-line service provider and the BPA Program Administrator in signed and written notification on business partner letterhead and sent by facsimile, U.S. mail, or private courier no less than thirty (30) days prior to the cancellation.

~~(b) The department may terminate a BPA contract and/or permit at any time without notice for any cause listed in Section 225.18 of these regulations.~~

~~(1) A business partner terminated for cause may not submit a new application until one year after the date its BPA contract and/or permit was terminated by the department for cause.~~

~~(e)(b) If the department eliminates the BPA program or makes substantial changes thereto, the department may terminate a BPA contract and/or permit without cause upon 30 days written notification to a business partner.~~

~~(d)(c) Upon the department's request, regardless of the reason, or upon the termination, cancellation or expiration of the BPA contract and/or permit, a business partner shall immediately discontinue the use of electronic interface access and the issuance of any and all DMV inventory, including, but not limited to, license plates, stickers and DMV95A paper.~~

Note: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

§ 225.72. Site Closure.

(a) A first-line service provider shall comply with the following procedures to close a site location within 30 days of cancellation, termination, revocation, or expiration of the BPA contract and/or permit:

(1) The first-line service provider shall collect all unassigned accountable and controlled inventory from all of its second-line business partner sites.

(2) The first-line service provider shall complete a Physical Inventory (Non-DMV Entities) form, ADM 175A (Rev. 2/2000), which is hereby incorporated by reference, by recording all of the unassigned accountable inventory on the form and signing the form.

(3) The first-line service provider shall update the status of its unassigned accountable inventory on the BPA Inventory Database system.

(4) The first-line service provider shall return the Physical Inventory (Non-DMV Entities) form and all unassigned accountable inventory by trackable U.S. mail or private carrier to: Department of Motor Vehicles, Forms and Accountable Items Section, 2570 24th Street, MS G202, Sacramento, CA 95818.

(5) The first-line service provider shall return all unassigned controlled inventory by trackable U.S. mail or private carrier to: Department of Motor Vehicles, Inventory Management, 4201 Sierra Point Drive, Suite 112, Sacramento, CA 95834.

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(6) The first-line service provider shall return all transactions and supporting documentation by trackable U.S. mail or private carrier to: Department of Motor Vehicles, Business Partner Automation Audits Unit, 2415 1st Ave, MS C380, Sacramento, CA 95818.

(7) The first-line service provider shall return the permit by trackable U.S. mail or private carrier to: Department of Motor Vehicles, BPA Program Administrator, 2415 1st Avenue, MS C383, Sacramento, CA 95818.

(b) A first-line business partner shall comply with the following procedures to close a site location within 30 days of cancellation or expiration of the BPA contract and/or permit.

(1) The first-line business partner shall collect all unassigned accountable and controlled inventory from all branch site locations.

(2) The first-line business partner shall complete a Physical Inventory (Non-DMV Entities) form, ADM 175A (Rev. 2/2000), by recording all unassigned accountable inventory on the form and signing the form.

(3) The first-line business partner shall record the status of its accountable inventory on the BPA Inventory Database system.

(4) The first-line business partner shall return the Physical Inventory (Non-DMV Entities) form and all unassigned accountable inventory by trackable U.S. mail or private carrier to: Department of Motor Vehicles, Forms and Accountable Items Section, 2570 24th Street, MS G202, Sacramento, CA 95818.

(5) The first-line business partner shall return all unassigned controlled inventory by trackable U.S. mail or private carrier to: Department of Motor Vehicles, Inventory Management, 4201 Sierra Point Drive, Suite 112, Sacramento, CA 95834.

(6) The first-line business partner shall return all transactions and supporting documentation by trackable U.S. mail or private carrier to: Department of Motor Vehicles, Business Partner Automation Audits Unit, 2415 1st Ave, MS C380, Sacramento, CA 95818.

(7) The first-line business partner shall return the BPA permit by trackable U.S. mail or private carrier to: Department of Motor Vehicles, BPA Program Administrator, 2415 1st Avenue, MS C383, Sacramento, CA 95818.

(c) A second-line business partner and its first-line service provider shall comply with the following procedures to close a second-line business partner site location within 30 days of cancellation or expiration of the BPA permit.

- (1) The second-line business partner shall collect all unassigned accountable and controlled inventory and return it to its first-line service provider within seven days of the cancellation or expiration of the BPA permit.
- (2) The first-line service provider may redistribute the unassigned accountable inventory to its other second-line business partners.
- (3) The second-line business partner shall return all transactions and supporting documentation to its first-line service provider within seven days of the cancellation or expiration of the BPA permit. The first-line service provider shall return all transactions and supporting documentation by trackable U.S. mail or private carrier to: Department of Motor Vehicles, Business Partner Automation Audits Unit, 2415 1st Ave, MS C380, Sacramento, CA 95818.
- (4) The second-line business partner shall return the BPA permit by trackable U.S. mail or private carrier to: Department of Motor Vehicles, BPA Program Administrator, 2415 1st Avenue, MS C383, Sacramento, CA 95818.

Note: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

§ 225.73. Issuance, Refusal, Suspension, Revocation, Compromise Settlement Agreements, and Automatic Cancellation of a BPA Permit.

(a) The department may issue or, for reasonable cause shown, refuse to issue a BPA permit, or may after notice and hearing, suspend or revoke the BPA permit for any violation or cause listed in Sections 225.09, 225.12, 225.15, 225.18, 225.24, 225.30, 225.33, 225.36, 225.39, 225.42, 225.48(a) and (b), 225.51, 225.54, 225.60, 225.63, 225.66(b) and (c), and 225.72 (a) and (b).

(b) The department may refuse to authorize an employee or applicant for employment of a first-line business partner, second-line business partner, or first-line service provider, or may after notice and hearing, suspend or revoke authorization for the employee to have access to the BPA program for any cause under Section 225.18.

(c) Every hearing provided for in this section shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) After the filing of an accusation or statement of issues under these regulations, the director of the Department of Motor Vehicles may enter into a compromise settlement agreement with a BPA permit holder on terms and conditions mutually agreeable to the director, the respondent permit holder, and the complainant, without further hearing or

appeal. The compromise settlement agreement may include, but it is not limited to, a period of probation, monetary penalties, or both.

(e) Any compromise settlement agreement may be entered before, during, or after the hearing, is valid only if executed and filed pursuant to subsection (f) below in these regulations before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(f) Any compromise settlement agreement entered under these regulations shall be signed by the director, the respondent BPA permit holder, and the complainant, or by their authorized representatives.

(g) If the respondent to a compromise settlement agreement fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement between the parties is void and the department may take any action authorized by law, notwithstanding the agreement, including but not limited to, refiling the accusation or statement of issues or imposing discipline or sanctions.

(h) The department may, pending a hearing, temporarily suspend the permit issued to BPA permit holder for not more than 30 days if the director finds that action is required in the public interest. In that case, a hearing shall be held and a decision issued within 30 days after the notice of the temporary suspension.

(i) The department may automatically cancel the BPA permit upon the happening of any of the following:

(1) The abandonment of the established place of business site of the BPA permit holder or change thereof without notice to the department, as provided for by Section 225.42.

(2) Failure of the BPA permit holder to maintain an adequate bond as required by Vehicle Code section 1685(b)(2)(C) and Section 225.09.

(3) The voluntary or involuntarily surrender for any cause by the BPA permit holder, except that the surrender of the BPA permit, cessation of business by the BPA permit holder, or the suspension or revocation of the corporate status of the BPA permit holder, does not preclude the filing of an accusation for revocation or suspension of the surrendered BPA permit under Section 225.73, does not affect the department's decision to suspend or revoke the BPA permit. The department's determination to suspend or revoke the BPA permit may be considered in issuing or refusing to issue any subsequent BPA permit authorized by regulations to that BPA permit holder or to a business representative of that prior licensee.

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(4) The suspension or revocation of the corporate status of the BPA permit holder.

(5) Failure to possess a valid occupational license from the department (if applicable).

(j) A BPA permit holder whose permit has been revoked or whose application for a permit was refused may reapply for a BPA permit after not less than one year from the effective date of the decision revoking or denying the permit.

Note: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 11500, Government Code and Section 1685, Vehicle Code.